

SUBCHAPTER C—APPEALS

PART 290—APPEALS PROCEDURES

Sec.

290.1 Scope.

290.2 Who may appeal.

290.3 Appeals to Director.

290.4 Oral argument.

290.5 Time limitations.

290.6 Appeals to the Commissioner of Indian Affairs.

290.7 Appeals to the Board of Land Appeals.

AUTHORITY: R.S. 463, 25 U.S.C. 2; R.S. 465, 25 U.S.C. 9; sec. 32, 41 Stat. 450, 30 U.S.C. 189; sec. 5, 44 Stat. 1058, 30 U.S.C. 285; sec. 10, 61 Stat. 915, 30 U.S.C. 359; sec. 5, 6, 67 Stat. 464, 465, 43 U.S.C. 1334, 1335; sec. 24, 84 Stat. 1573, 30 U.S.C. 1023; 30 U.S.C. 1751.

SOURCE: 38 FR 10001, Apr. 23, 1973, unless otherwise noted.

§290.1 Scope.

The rules and procedures set forth herein apply to appeals to the Director, Minerals Management Service (and the Commissioner of Indian Affairs when Indian lands are involved) from final orders or decisions of officers of the Minerals Management Service, issued under authority of the regulations in chapter II of this title, 43 CFR part 23, 43 CFR subtitle B, chapter II, and 25 CFR part 177. This part also provides for the further right of appeal to the Board of Land Appeals in the Office of Hearings and Appeals, Office of the Secretary, from adverse decisions of the Director (and the Commissioner of Indian Affairs when Indian lands are involved) rendered under this part.

[38 FR 10001, Apr. 23, 1973, as amended at 47 FR 28370, June 30, 1982]

§290.2 Who may appeal.

Any party to a case adversely affected by a final order or decision of an officer of the Minerals Management Service shall have a right to appeal to the Director, Minerals Management Service, unless the decision was approved by the Secretary or the Director prior to promulgation.

[38 FR 10001, Apr. 23, 1973, as amended at 47 FR 28370, June 30, 1982]

§290.3 Appeals to Director.

(a)(1) An appeal to the Director, Minerals Management Service, may be taken by filing a notice of appeal in the office of the official issuing the order or decision within 30 days from service of the order or decision. The notice of appeal shall incorporate or be accompanied by such written showing and argument on the facts and laws as the appellant may deem adequate to justify reversal or modification of the order or decision. Within the same 30-day period, the appellant will be permitted to file in the office of the official issuing the order or decision additional statements of reasons and written arguments or briefs.

(2) No extension of time will be granted for filing the notice of appeal. If the notice is filed after the grace period provided in §290.5(b) of this title and the delay in filing is not waived, as provided by that section, the notice of appeal will not be considered and the case will be closed.

(b) The officer with whom the appeal is filed shall transmit the appeal and accompanying papers to the Director, Minerals Management Service, with a full report and his recommendation on the appeal.

(c) The Director will review the record and render a decision in the case.

[38 FR 10001, Apr. 23, 1973, as amended at 54 FR 52797, Dec. 22, 1989]

§290.4 Oral argument.

Oral argument in any case pending before the Director, Minerals Management Service, will be allowed on motion in the discretion of such officer and at a time to be fixed by him.

§290.5 Time limitations.

(a) With the exception of the time fixed for filing a notice of appeal, the time for filing any document in connection with an appeal may be extended by the Director, Minerals Management Service. A request for an extension of time must be filed within

the time allowed for filing of the document and must be filed in the same office in which the document in connection with which the extension is requested must be filed.

(b) A notice of appeal must be filed within the time provided in § 290.3 of this title. If the notice of appeal is not received in the proper office within that time, the delay in filing will be waived if the notice of appeal is filed not later than 10 days after it was required to be filed and it is determined that the notice of appeal was transmitted to the proper office before the end of the time required for filing in § 290.3(a)(1) of this title. Determinations under this paragraph shall be made by the officer with whom the notice of appeal is required to be filed.

[38 FR 10001, Apr. 23, 1973, as amended at 54 FR 52797, Dec. 22, 1989]

§ 290.6 Appeals to the Commissioner of Indian Affairs.

The procedure for appeals under this part shall be followed for permits and leases on Indian land except that with respect to such permits and leases, the Commissioner of Indian Affairs will exercise the functions vested in the Director, Minerals Management Service.

§ 290.7 Appeals to the Board of Land Appeals.

Any party to a case adversely affected by a final decision of the Director, Minerals Management Service, or the Commissioner of Indian Affairs under this part shall have a right of appeal to the Board of Land Appeals in the Office of Hearings and Appeals, Office of the Secretary, in accordance with the procedures provided in 43 CFR part 4, "Department Hearings and Appeals Procedures."